

SERVICE DATE – LATE RELEASE FEBRUARY 28, 2005

SURFACE TRANSPORTATION BOARD

DECISION

STB Finance Docket No. 34660

GEORGIA CENTRAL RAILWAY, L.P.–ACQUISITION AND OPERATION
EXEMPTION–RAIL LINE OF CSX TRANSPORTATION, INC.

[REQUEST FOR WAIVER OF 49 CFR 1150.42(e)]

Decided: February 28, 2005

We are granting a request of Georgia Central Railway, L.P. (Georgia Central or petitioner) for waiver of the requirement of 49 CFR 1150.42(e)¹ that 60 days' notice be given to employees who may be affected by Georgia Central's planned acquisition and continued operation of a rail line currently owned by CSX Transportation, Inc. (CSXT) in Bibb, Twiggs, Wilkinson, and Laurens Counties, GA. Georgia Central currently leases the rail line from CSXT and is the exclusive operator on the line.

On February 1, 2005, Georgia Central, a Class III rail carrier, filed a verified notice of exemption under 49 CFR 1150.41 to acquire and continue to operate approximately 57.2 miles of rail line between milepost SK 0.8 at Macon, and milepost SK 58.0 at East Dublin, GA. Petitioner's waiver request was included in, and made a part of its verified notice of exemption. Petitioner states that the parties would like to consummate the transaction on or about February 28, 2005.

Georgia Central requests waiver of our requirement at 49 CFR 1150.42(e) to permit the exemption it is seeking in this proceeding to become effective without providing the 60-day advance notice to employees on the affected rail line and to the national offices of the labor unions of those

¹ Under 49 CFR 1150.42(e), "If the projected annual revenue of the rail lines to be acquired or operated, together with the acquiring carrier's projected annual revenue, exceeds \$5 million, the applicant must, at least 60 days before the exemption becomes effective, post a notice of applicant's intent to undertake the proposed transaction at the workplace of the employees on the affected line(s) and serve a copy of the notice on the national offices of the labor unions with employees on the affected line(s), setting forth the types and numbers of jobs expected to be available, the terms of employment and principles of employee selection, and the lines that are to be transferred, and certify to the Board that it has done so."

employees. Petitioner states that no purpose would be served by requiring notice because all of the employees currently working on the line are Georgia Central employees, that there are no union employees involved, and that neither the operation of the line nor Georgia Central's employees will be impacted in any respect as a result of this transaction.

By letter filed on February 3, 2005, Georgia Central notified the Board that maintenance on the line is currently being performed by its employees and that no CSXT employees have been involved in any operations or maintenance on the line since 1990. On February 4, 2005, CSXT submitted a letter in support of petitioner's acquisition and operation request.

DISCUSSION AND CONCLUSIONS

The purpose of our notice requirement at 49 CFR 1150.42(e) is to ensure that rail labor unions and employees who would be affected by the transfer of a line are given sufficient notice of the transaction before consummation.² The Board takes seriously the requirements of the rule, but it does not appear that the purpose behind the notice requirement will be thwarted by the requested waiver in this situation. Here, no CSXT employees will be affected because no CSXT employees have been involved in any operations or maintenance on the line since 1990. There is no need for advance notice here because the planned transaction will merely convert operation under lease to a similar operation under Georgia Central's ownership.³ Accordingly, we will grant the requested waiver.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. Georgia Central's request for waiver is granted.

² See Acq. of R. Lines Under 49 U.S.C. 10901 & 10902 – Advance Notice, 2 S.T.B. 592 (1997).

³ See Lancaster and Chester Railway Company–Acquisition and Operation Exemption–Norfolk Southern Railway Company, STB Finance Docket No. 34334 (STB served Apr. 28, 2003).

2. This decision is effective on its date of service.

By the Board, Chairman Nober, Vice Chairman Buttrey, and Commissioner Mulvey.

Vernon A. Williams
Secretary